

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION.**

**FIRST APPEAL NO.529 OF 1999.**

Shri Ramdas Kashiram Choudhari

& Anr. : Appellants.

versus

Shir Sham Namdev Pawar & ors. : Respondents.

Mr.S.G.Kudle for the appellants.

Ms.P.P.Tendulkar i/by Mr.Deepak More for the  
respondents.

**CORAM : D.G.DESHPANDE, J.**

**DATED : 27th APRIL 2005.**

**ORAL ORDER**

1. Heard advocates for the appellants and respondents. The appeal is filed by the original claimants. Their claim petition came to be dismissed by the tribunal for want of any evidence about rash and negligent driving of the jeep by original Opponent/respondent. The

vehicle was owned by the original opponent No.1 and driven by opponent No.2. It is clear from the judgment and evidence on record that the case was not properly conducted for and on behalf of the claimants. The police papers viz. panchanama, which was the crucial document, though on record, was not prove nor put to any witness, nor any panch was examined. Therefore, the counsel for the appellants made only one submission that this is a fit case for remand. This submission has to be accepted, because the tribunal has observed that the evidence was available but it was not let and, therefore, adverse inference was drawn. In view of this matter, the impugned order of dismissal of the claim petition is set aside. The matter is remanded back to the Motor Accident Claims Tribunal Nashik. The tribunal will issue notices to the concerned parties and will decide the matter within six weeks from the date of first appearances after remand, according to law. R&P to be sent forthwith. The parties are at liberty to adduce evidence in whatever form they want to.

[D.G.DESHPANDE]

27/04/2005

JUDGE .